

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6212**

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JIMMY WESTFALL,

Petitioner - Appellant,

versus

WEST VIRGINIA PAROLE BOARD MEMBERS; DOUGLAS  
STUMP, Chairman of Board; BOB WISE, Governor,  
Chief Executive Officer,

Respondents - Appellees.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Charleston. Charles H. Haden II,  
District Judge. (CA-02-987-2-2)

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Submitted: July 7, 2003

Decided: July 28, 2003

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Before LUTTIG, WILLIAMS, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Jimmy Westfall, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Jimmy Westfall seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his petition under 28 U.S.C. § 2254 (2000). An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Westfall has not satisfied either standard. See Miller-El v. Cockrell, 537 U.S. 322, \_\_\_\_\_, 123 S. Ct. 1029, 1039 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED